

application. In particular, Groups I and II should be examined together because Group II relies, at least in part, on the pharmaceutical composition of Group I for patentability. The claims in Group I include a pharmaceutical composition comprising HGF. The claims of Group II include the pharmaceutical composition comprising HGF, and additionally contain a pharmacologic agent (e.g., VEGF in Claim 15). Thus, had Applicants elected the claims of Group II, the Examiner would have had to include in his examination the art pertaining to the claims of Group I. Further, due to the reliance of Group II to the subject matter of Group I, Group II cannot be used for purposes not associated with the subject matter of Group I. Thus, Applicants submit that the Examiner should examine the claims of both of Groups I and II together.

Moreover, Applicants submit that examination of all of the claims would not pose an undue burden on the Examiner. Section 803 of The Manual of Patent Examining Procedure states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Group I and Group II are classified in the same class and subclass. Therefore, Applicants submit that it would not pose an undue burden on the Examiner to examine all of the claims pending in this application.

Additionally, Applicants submit that Claim 14 should be included in Group I because Claim 14 does not contain VEGF. Thus, Applicants submit that, at a minimum, Claims 8-14 should be examined together in one application.

In view of the above, the restriction is believed to be improper and Applicants respectfully request that the restriction be reconsidered and withdrawn such that the claims of Groups I and II (i.e., Claims 8-15) are examined in one application.

Applicants submit that the application is now in condition for examination on the merits.

Early notification of such action is earnestly solicited.

Respectfully submitted,

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